

**REMARKS**

The Office Action dated January 9, 2008 (the “Office Action”) rejected all pending claims in this application, which include claims 1-19. Following entry of the present Response and Amendment, claims 1-19 remain pending in this application. Claims 1-15 and 17-19 have been amended and new claim 20 has been added. No prohibited new matter has been introduced into the present application through these amendments.

Claims 1, 2, 7, 11, 15, and 19 were objected to due to informalities and have been amended to correct these informalities. Claims 1-19 were rejected under 35 U.S.C. § 112 as failing to distinctly claim the subject matter which Applicants regard as the invention. These claims have been amended to comply with § 112. Claims 1-14 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter and have been amended to claim a computer-based system.

Claims 1-4 and 8 were rejected under 35 U.S.C. § 102(a) as allegedly being anticipated by U.S. Patent No. 6,409,514 to Bull (henceforth, “Bull”). Claim 5 was rejected under 35 U.S.C. § 103(a) as allegedly being rendered obvious by Bull in view of Simmons (WO 98/03953), further in view of Sandoval et al. (U.S. Pub. No. 2003/0004766). Claims 6 and 14 were rejected under 35 U.S.C. § 103(a) as allegedly being rendered obvious by Bull in view of Stoneking et al. (US 2003/0050814). Claims 7, 13, 15 and 19 were rejected under 35 U.S.C. § 103(a) as allegedly being rendered obvious by Bull in view of Simmons. Claims 9 and 16 were rejected under 35 U.S.C. § 103(a) as allegedly being rendered obvious by Bull in view of Simmons, further in view of U.S. Patent No. 6,157,808 to Hollingsworth. Claim 10 was rejected under 35 U.S.C. § 103(a) as allegedly being rendered obvious by Bull in view of U.S. Patent No. 6,658427 to Kogut-O’Connell et al. and U.S. Patent No. 7,031,651 to McCormick et al., further in view of Hollingsworth and Simmons. Claim 11 was rejected under 35 U.S.C. § 103(a) as allegedly being rendered obvious by Bull in view of Stoneking et al., further in view Kirkpatrick (*Evaluating Training Programs: The Four Levels*). Claim 12 was rejected under 35 U.S.C. § 103(a) as allegedly being rendered obvious by Bull in view of Simmons and Sandoval et al., further in view of Holland (*Professional Development in Technology: Catalyst for School Reform*). Claim 17 was rejected under 35 U.S.C. § 103(a) as allegedly being rendered obvious by Bull in view of Simmons, further in view of Kogut-O’Connell et al. Claim 18 was rejected under 35 U.S.C. § 103(a) as allegedly being rendered obvious by Bull in view of Simmons, further in view of Holland.

Entry of this amendment and reconsideration of the grounds for rejection in the Office Action in light of the following specific remarks is thus requested.

Priority

Applicants request the benefit of an earlier filing date for provisional applications 60/391,932 and 60/391,929 in addition to the benefit granted for application 60/398,814. According to MPEP § 201.11(II)(A), “[i]f the day that is 12 months after the filing date of a provisional application falls on a Saturday, Sunday, or Federal holiday within the District of Columbia, the nonprovisional application may be filed on the next succeeding business day.” Provisional applications 60/391,932 and 60/391,929 were filed on June 28, 2002. June 28, 2003 was a Saturday and thus this nonprovisional application, 10/608,428, was filed on the next succeeding business day, Monday, June 30, 2003.

§ 102 Rejections

The Office Action alleges that independent claim 1 is unpatentable over Bull. Insofar as this reference applies to the claims as presently amended, Applicants respectfully traverse.

To establish a *prima facie* case of anticipation under 35 U.S.C. § 102(e), the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present. MPEP 2131. Applicant respectfully submits that this criterion has not been met for Bull as applied to the claims of the present invention.

Specifically, claim 1 of the present invention recites, in pertinent part, “a delivery planning sub-module containing related business processes to manage, coordinate, forecast and schedule training activities based on input from other modules of said organization’s business driven learning solution.” Applicants respectfully submit that Bull fails to disclose the forecasting and scheduling of training activities based on business information. Bull discloses scheduling that consists of signing up a worker for an available class (Bull, col. 3, lines 24-26) and splitting a class into sections if demand is greater than facility capacity (col. 3, lines 53-57). Bull does not disclose the type of scheduling of claim 1 that is based on business strategy (“business driven”) nor the forecasting of training needs.

In light of the above amendments and remarks, it is respectfully submitted that the outstanding rejection of claim 1, insofar as it has been amended, as being anticipated by Bull

is improper. Thus, Applicant respectfully submits that claim 1 is not anticipated by Bull.

Claims 2-4 and 8 depend directly or indirectly from claim 1 and incorporate the limitations of the base claim. Thus Applicant respectfully submits that claims 2-4 and are not anticipated by Bull for at least the reasons recited with respect to claim 1 above.

Withdrawal of the rejection of claim 1-4 and 8 under 35 U.S.C. § 102(e) is respectfully requested.

#### §103 Rejections

The Office Action also alleges that independent claim 15 is unpatentable over Bull in view of Simmons. Insofar as this reference applies to the claims as presently amended, Applicants respectfully traverse.

The USPTO has issued examination guidelines for determining obviousness under 35 U.S.C. 103 in view of the Supreme Court decision in *KSR International Co. v. Teleflex Inc.* First an examiner must complete the basic factual inquiries of *Graham v. John Deere Co.* Next, seven rationales are provided in 72 Fed. Reg. 57526 (dated October 10, 2007) to determine whether the claimed invention would have been obvious to one of ordinary skill in the art: (A) combining prior art elements according to known methods to yield predictable results; (B) simple substitution of one known element for another to obtain predictable results; (C) use of known technique to improve similar devices (methods, or products) in the same way; (D) applying a known technique to a known device (method, or product) ready for improvement to yield predictable results; (E) “obvious to try”—choosing from a finite number of identified, predictable solutions, with a reasonable expectation of success; (F) known work in one field of endeavor may prompt variations of it for use in either the same field or a different one based on design incentives or other market forces if the variations would have been predictable to one of ordinary skill in the art; and (G) some teaching, suggestion, or motivation in the prior art that would have led one of ordinary skill to modify the prior art reference or to combine prior art reference teachings to arrive at the claimed invention. The MPEP further clarifies that the prior art references must disclose or suggest all of the claimed features. *See* MPEP 2143. Applicants respectfully submit that these criteria have not been met by the prior art asserted against the current claims as presently amended.

Claim 15 recites in part, “collecting training user data to effectively forecast demand

of said organization's learning resources" and "scheduling said organization's training delivery based on said training user data." Bull does not disclose "collecting training user data to effectively forecast demand of an organization's learning resources" at least for the reasons stated above. Bull discloses assigning workers to classes and splitting classes that are overfilled. Further, the Simmons reference does not remedy this deficiency with regard to claim 15. Simmons discloses a method of combining interactive instruction over a computer network with distributed course materials for the provision of computer-based training to a geographically dispersed group of students. (Simmons, Abstract). Simmons does not disclose or suggest "collecting training user data to effectively forecast demand of an organization's learning resources."

In this regard, the rejections of the claim 15 based on Bull and Simmons fails to meet the standard for a *prima facie* obviousness rejection as these references fail to teach or suggest all elements of the claim. In light of the above amendments and remarks, it is respectfully submitted that the outstanding rejection of the above claims, insofar as they have been amended, as being rendered obvious by Bull and Simmons is improper. Thus, Applicants respectfully submit that claim 15 is not obvious.

Claims 16-19 depend directly or indirectly from claim 15 and incorporate the limitations of the base claim. Claims 6-7, 9-14, and 20 depend directly or indirectly from claim 1 and incorporate the limitations of that base claim. None of the other cited references remedy the deficiency of Bull and Simmons. Hollingsworth discloses a computerized employee certification and training system, and Kogut-O'Connell discloses electronic calendaring and scheduling functions. McCormick discloses a method for facilitating online private instruction, and Stoneking discloses a computer assisted benchmarking system. Sandoval discloses a method for implementing a best practice idea, and Holland and Cooper disclose various ways to use technology in the school setting. Finally, Cooley discloses a staff development program designed by and for teachers rather than consultants. None disclose the forecasting and scheduling of training activities as disclosed in the present invention and specifically in claims 1 and 15. Thus, Applicants respectfully submit that claims 6-7, 9-14, and 16-20 are not obvious for at least the reasons recited with respect to claims 1 and 15 above.

Appropriate reconsideration and withdrawal of the rejections of claims 6-7, 9-14, and 16-20 under 35 U.S.C. § 103 is respectfully requested.

U.S. Application No. 10/608,428  
Response and Amendment dated April 9, 2008  
In response to Office Action dated January 9, 2008

**CONCLUSION**

In view of the foregoing, the Applicants respectfully requests that the Examiner consider the claims as amended for examination on the merits. A timely allowance of the pending claims is requested.

If there are any fees (such as necessary extension of time or extra claims fees) due in connection with the filing of this Response and Amendment which not covered by the concurrently submitted transmittal document, please charge any necessary fees or credit any overpayments to Deposit Account No. 50-1349.

The Examiner is invited to contact Applicants' undersigned attorneys by telephone to discuss any matters if the Examiner feels such discussions may expedite the progress of the present application toward allowance.

Respectfully submitted,

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